**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 3150 of 1996**

**For Approval and Signature:**

**HONOURABLE MS. JUSTICE R.M.DOSHIT**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**SHRADHA PETROLIUM - Petitioner(s)**
**Versus**
**DISTRICT COLLECTOR & 1 - Respondent(s)**

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**Appearance :**
MR BA SURTI for Petitioner(s) : 1,
MS MINI NAIR, AGP for Respondent(s) : 1 - 2.

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**CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT**

**Date : 05/10/2007**

**ORAL JUDGMENT**

The petitioner, a dealer in petrol and diesel, challenges the order dated 2nd February, 1994 made by the District Collector, Vadodara under Section 6A of

the Essential Commodities Act, 1955 (hereinafter referred to as, **“the Act”**) and the order dated 1st January, 1996 made by the State Government in Revision Application No.161/1994. The petitioner runs a petrol pump at Vadodara. On 28th March, 1988 he had been given licence to deal in petrol and diesel. The said licence was valid upto 31st December, 1992. Since 1st January, 1993 the petitioner continued to deal in petrol and diesel without the licence. On 1st December, 1993 the officers of the Civil Supplies Department carried out inspection at the concerned petrol pump and found that the petitioner had continued to deal in petrol and diesel without a valid licence till the date i.e. 1st December, 1993. In view of the said illegality committed by the petitioner, the articles i.e. the petrol and the diesel worth Rs.3,05,149=35 in aggregate were seized. After giving notice to show-cause why the said articles be not confiscated, the District Collector, by impugned order dated 2nd February, 1994, ordered confiscation of the seized articles. Feeling aggrieved, the petitioner preferred Revision Application No.161/1994 before the State Government,

which came to be rejected by the Deputy Secretary to the Government of Gujarat (Civil Supplies Department) on 1st January, 1996. Therefore, the present petition.

It is not in dispute that petrol and diesel are essential articles within the meaning of the Act. It is also not in dispute that no person can legally deal in the essential articles without a valid licence issued by the concerned authority. Sub-clause (1) of Clause 5 of the Gujarat Essential Articles (Licensing, Control and Stock Declaration) Order, 1981 (hereinafter referred to as, **"the Order"**) provides, inter alia, that "**Every licence granted under this Order shall be valid for a period of five years from the 1st January of the year in which it is issued and may be renewed for a period of five years if an application for the renewal thereof is made within a period of its validity:**" In the present case, licence was issued to the petitioner on 28th March, 1988. In accordance with the above sub-clause (1) of Clause 5 of the Order, it was valid for a period of five years from 1st January, 1988 i.e. upto 31st December, 1992. Admittedly, the petitioner had

not made application for renewal of licence before its expiry i.e. before 31st December, 1992. According to the petitioner, it had made application for renewal of licence on 19th April, 1993. The only explanation that came forth from the petitioner was that as the licence was issued on 28th March, 1993 he was under impression that the licence was valid for a period of five years from the date of its issuance i.e. 28th March, 1988 to 27th March, 1993. The petitioner, therefore, did not make application for renewal of licence during its subsistence i.e. prior to 31st December, 1992. However, such application was made on 19th April, 1993. The said mistake had occurred on account of ignorance of law and through oversight. As it was a bonafide mistake, the articles seized should be released and no order for confiscation be made. Nevertheless, the District Collector made the impugned order dated 2nd February, 1994 to confiscate the articles seized on 1st December, 1993. The said order has been confirmed in Revision Application by the State Government by impugned order dated 1st January, 1996.

Mr.Surti has submitted that the impugned order of confiscation of the articles is not sustainable. He has submitted that except want of valid licence, no irregularity was found by the Civil Supplies authority. Pursuant to the application made on 19th April, 1993, the licence was renewed with effect from 1st January, 1993. In support thereof, he has produced a challan indicating licence renewal fee of Rs.35=00 paid on 24th June, 1993 and a challan indicating payment of Rs.35=00 made on 2nd December, 1993 for issuance of fresh licence. He has also produced copy of the licence.

The said licence was issued on 16th December, 1993 in favour of one Bharatbhai Ramanbhai Patel and Ramalbhai Shamalbhai Patel. The said licence to deal in petrol and diesel was given for the period from 16th December, 1993 to 31st December, 1998. The same has since been renewed for the period from 1st January, 1999 to 31st December, 2003 and from 1st January, 2004 to 31st December, 2008. There is nothing on the record to show that the petitioner was granted licence to deal in petrol and diesel with

retrospective effect from 1st January, 1993 till 15th December, 1993. Evidently, the licence which had expired on 31st December, 1992 was not renewed as the petitioner had not applied for renewal of licence during its subsistence. Application for a fresh licence was made on 2nd December, 1993 after search and seizure was carried out on 1st December, 1993.

It cannot be gainsaid that the petitioner continued to deal in petrol and diesel without a valid licence from 1st December, 1993 to 16th December, 1993 contrary to the provisions of the Act and the Order. Section 6A of the Act empowers the Collector to order confiscation of the seized essential articles in case there has been a contravention of the order. It is indisputable that the petitioner did continue to deal in the essential articles namely petrol and diesel without a valid licence for the period from 1st January, 1993 to 16th December, 1993.

In the circumstances, the respondent authority was wholly justified in directing confiscation of the

seized articles. The impugned order, having been made in exercise of power conferred by the Act, no interference is warranted. Petition is dismissed with cost. Rule is discharged. Interim relief stands vacated. The registry shall issue the writ forthwith.

Mr.Surti requests that the interim relief be continued for a period of eight weeks. Request is granted. Interim relief granted pending the petition be continued for a period of eight weeks from today.

**(Ms. R.M.Doshit, J.)**

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